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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,950	03/15/2001	Rodney Senior	13620	3634

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EXAMINER

RHODE JR, ROBERT E

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/805,950	Applicant(s) SENIOR, RODNEY	
	Examiner Rob Rhode	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>25 Jan 05</u> . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3-03-05 has been entered.

Response to Amendment

Applicant amendment of 3-03-05 amended claims 6 – 23 and added new claims 24 - 25 as well as traversed rejections of Claims 6 - 23.

Currently, claims 6 - 25 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6, 12, 13, 16 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1 for example, the phrase "real time " is a relative phrase, which renders the claims indefinite. The phrase "

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real time " is not defined by the claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. For examination purposes the phrase "real time" will be treated as a generic phrase.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 19 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In both claims, the applicant states that a computer database has "means for" executing an operation such as selecting, purchasing or converting. However, computer database's store data and do not select, purchase or convert. Rather, a computer database "stores" the results of these operations.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 19 for example, the phrase "computer database includes "means for" is a relative phrase, which renders the claims indefinite. The phrase " means for...select, purchase or converting " is not defined by the claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. For examination purposes the phrase "means for...select, purchase or converting" will be treated as a generic phrase.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 – 6, 8 – 13, 15 – 18, 21, 22 and 24 – 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholson (US 6,778,967 B1) in view of Chen (US 6,741,969 B1).

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Regarding claim 6 (currently amended) and related claims 12 and 13, Nicholson teaches a method and system of electronically transacting the purchase of a commodity, which comprises:

a) providing an electronic system for purchasing commodities over a communication network and which system includes a computer database containing commodity information concerning at least on a product or service which may be purchased at a real time purchase price, that is locked-in at time of purchase, for at least partial consumption or use at a future date (see at least Abstract, Col 4, lines 1 - 10 and Figure 6);

and;

c) the purchaser electronically accessing the electronic system and, upon verification of the purchaser's unique secure access code, the purchaser selecting and purchasing from the computer database a quantity of a given selected commodity at the real time purchase price reflected in the computer database for redemption of at least a portion of the quantity of the commodity purchased at a future date at the locked-in purchase price to thereby ensure that the quantity of commodity purchased is not subject to future market price fluctuations and creating a quantity credit account for the commodity purchased (Abstract and Col 5, lines 1 - 9). Please note that Nicholson does not specifically disclose a "unique access code". However, Nicholson does disclose purchasing a quantity of a selected commodity over the Internet as well as establishing an account, which is tracked by the method of and system of Nicholson. Moreover, it was old and well known at the time of the applicant's invention that method and system

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for purchasing commodities by an individual purchaser over the network often use unique access codes such as passwords to access ones account. Additionally, Nicholson discloses and would teach one of ordinary skill of purchasing over the Internet as well as establishing specific individual accounts with a system to register the purchases plus track the expenditures from the individuals account. Furthermore, one of ordinary skill in the art would have been motivated to extend the method and system of Nicholson with a unique access code in order to ensure that each individual receives the commodities they purchased previously at a lock-in price and be assured that the system is secure as possible.

d) storing data in the computer database for the quantity credit account in an electronically accessible format (see at least Col 5, lines 1 – 10 and Figure 6 and 7B); and

e) subsequently, at a point of redemption, electronically accessing said the computer database and redeeming at least a portion of the quantity of the commodity previously purchased and adjusting the quantity credit account to reflect the portion of the quantity of commodity purchased that has been redeemed (see at least Col 6, lines 12 – 23 and 52 – 67 and Figure 7B).

Nicholson does disclose purchasing over the internet as well establishing individual accounts, the reference does not specifically disclose and teach b) electronically pre-registering a purchaser and providing the purchaser with a unique secure access code and authoring the purchaser to purchase a quantity of commodity from the system

On the other hand and in the same area of purchasing a commodity online for a future locked price, Chen teaches a method and system b) electronically pre-registering a purchaser and providing the purchaser with a unique secure access code and authoring the purchaser to purchase a quantity of commodity from the system (see at least Abstract and Col 12, lines 47 – 50).

It would have been obvious to one of ordinary skill in the art to have provided the method and system of Nicholson with the method and system of Chen to have enabled a method and system as recited in claim 1. Nicholson discloses a method and system for purchasing a quantity of a commodity at future time at locked price (see at least Abstract and Figures 6 and 7B). Chen discloses a method and system registering a purchaser with an access code such as a password (see at least Abstract and Col 12, lines 47 – 50). Therefore, one of ordinary skill in the art would have been motivated to extend the method and system of Nicholson with a method and system for electronically pre-registering a purchaser and providing the purchaser with a unique secure access code and authoring the purchaser to purchase a quantity of commodity from the system. In this manner, the purchaser account information is protected and thereby increasing trust of the purchaser. With this increased trust, the probability will be increased that the purchaser will continue to use the method and system as well recommend it to others.

Regarding claim 8 (currently amended), Nicholson teaches a method wherein the

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redeeming is performed at a plurality of locations (Col 5, lines 27 - 28).

Regarding claim 9 (currently amended), Nicholson teaches a method wherein the computer database includes a plurality of commodities and the purchaser purchasing? discrete quantities of commodities for future redemption and adjusting the quantity credit account to reflect said purchases and redemptions (Col 5, lines 1- 10).

Regarding claim 10 (currently amended), Nicholson teaches a method wherein the purchasing and redeeming steps are performed over a computer network (Abstract and Figure 6).

Regarding claim 11 (currently amended), Nicholson teaches a method wherein at least one commodity is a brand name commodity and the purchasing and redeeming steps are effected with the same brand name of the commodity (Abstract and Col 8, lines 27 – 29).

Regarding claim 15 (currently Amended), Nicholson teaches a system wherein the means for the purchaser to purchase includes a computer server, which is connected to said computer database (figure 6).

Regarding claim 16 (currently amended), Nicholson teaches a system wherein the

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computer database includes a plurality of commodity description and real time current pricing information with respect thereto and includes an Internet browser (Abstract and Col 5, lines 1 – 10).

Regarding claim 18 (currently amended), Nicholson teaches a system of claim, wherein said computer server is electronically connected to a point-of-sale terminal (Col 6, line 41).

Regarding claim 21 (currently amended) and related claim 22, Nicholson teaches a system wherein the commodity redemption module is operable in conjunction with an encoded access device (Col 6, lines 3 – 4).

Regarding claim 24 (New), Nicholson teaches a system further including means for the purchaser to view and print transaction histories and account balances contained in said quantity credit account. Please note that Nicholson does not specifically disclose printing of transaction histories. However, Nicholson does disclose printing with their PC. Therefore, one of ordinary skill in the art would have been motivated to extend the system of Nicholson for printing transaction and account balances.

Regarding claim 25 (New), Chen teaches a system including means in said computer database to modify purchaser contact information and information concerning a profile of the purchaser and to modify the unique secure access code of the purchaser. Please

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note that Chen does not specifically disclose purchaser contact information and modify access codes. However, this system of changing purchaser contact information as well password was well known to one of ordinary skill in the art at the time of the applicant's invention. Thereby, the purchaser would be motivated to change these settings in order to ensure security of the account and to ensure their bills are sent to the correct location and thereby ensure to that they can pay in timely fashion to ensure against bad credit rating for not paying their bills.

Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Nicholson and Chen as applied to claims 1 and 13 above, and further in view of Van Dusen (US 6,594,644 B1).

The combination of Nicholson and Chen disclose and teach substantially the applicant's invention.

However, the combination does not specifically disclose and teach a method and system wherein at least portion of the quantity of the commodity purchased is electronically transferred in the computer database by the purchaser in order to be redeemed by another entity.

On the other hand and regarding claim 7 and related claim 14, Van Dusen teaches a method and system wherein at least portion of the quantity of the commodity purchased

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is electronically transferred in the computer database by the purchaser in order to be redeemed by another entity (see at least Abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Nicholson and Chen with the method and system of Van Dusen to have enabled a method and system wherein at least portion of the quantity of the commodity purchased is electronically transferred in the computer database by the purchaser in order to be redeemed by another entity. The combination of Nicholson and Chen disclose a method and system as recited in claim 1. In turn, Van Dusen discloses a method and system wherein at least portion of the quantity of the commodity purchased is electronically transferred in the computer database by the purchaser in order to be redeemed by another entity (Abstract). Therefore, one of ordinary skill in the art would have been motivated to extend the combination of Nicholson and Chen with a method and system wherein at least portion of the quantity of the commodity purchased is electronically transferred in the computer database by the purchaser in order to be redeemed by another entity. In this manner, the purchaser can transfer some portion of their purchase to another recipient/entity and thereby allow select others to enjoy the savings too as a gift.

Claims 19 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Nicholson as applied to claim 13 above, and further in view of Zicker (US 6,526,277 B1).

The combination of Nicholson and Chen disclose and teach substantially the applicant's invention.

However, the combination does not specifically disclose and teach a system wherein said computer database includes means for selecting and purchasing a quantity of a commodity in one of a plurality of different geographical price zones and wherein said computer database includes means for converting Quantities of commodity Purchased between said plurality of different geographical price zones.

Regarding claim 19 (currently amended), Zicker teaches a system wherein said computer database includes means for selecting and purchasing a quantity of a commodity in one of a plurality of different geographical price zones (Col 51, lines 50 – 53).

20. (currently amended), Zicker teaches a system wherein said computer database includes means for converting quantities of commodity Purchased between said plurality of different geographical price zones (Col 51, lines 50 – 53).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Nicholson and Chen with the system of Zicker to

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have enabled a system wherein said computer database includes means for selecting and purchasing a quantity of a commodity in one of a plurality of different geographical price zones and wherein said computer database includes means for converting quantities of commodity purchased between said plurality of different geographical price zones. The combination of Nicholson and Chen disclose and teaches the limitations of claim 13 as recited. In turn, in the same area of purchasing a commodity such as service, Zicker discloses a system wherein said computer database includes means for selecting and purchasing a quantity of a commodity in one of a plurality of different geographical price zones and wherein said computer database includes means for converting quantities of commodity purchased between said plurality of different geographical price zones (Col 51, lines 50 – 53). Therefore, one of ordinary skill in the art would have been motivated to extend the combination of Nicholson and Chen with the system wherein said computer database includes means for selecting and purchasing a quantity of a commodity in one of a plurality of different geographical price zones and wherein said computer database includes means for converting quantities of commodity purchased between said plurality of different geographical price zones.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Nicholson and Chen as applied to claim 13 above, and further in view of Loble (US 6,151,565).

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The combination of Nicholson and Chen substantially disclose and teach the applicant's invention including a means for separating the quantity credit account into discrete purchase blocks and each block represents a different purchase made at different locked-in real time purchase price (see at least Nicholson, Abstract and Col 5, lines 20 - 28).

However, the combination does not specifically disclose and teach a system further comprising: e) a means for combining data in said purchase blocks to provide a weighted average purchase value of same commodities in said quantity credit account in a format that can be compared with current market prices for the same commodities.

On the other hand and regarding claim 23 (currently amended), Lobley teaches a system further comprising: e) a means for combining data in said purchase blocks to provide a weighted average purchase value of same commodities in said quantity credit account in a format that can be compared with current market prices for the same commodities (see at least Col 15, lines 12 – 19). Please note that Lobley does not specifically disclose purchase blocks. However, Lobley does disclose cost, which is equivalent to price – since a purchaser does evaluate cost of items (i.e. prices). Moreover, calculating weighted averages was well known at the time of the applicant's invention as taught by Lobley as well the past teachings from Deaton. Furthermore, weighted average calculation techniques were old and well known at the time of the applicant's invention and thereby one of ordinary skill would have been motivated to

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extend the combination of Nicholson and Chen with a weighted average calculation capability.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Nicholson and Chen with the system of Loblely to have enabled a system further comprising: e) a means for combining data in said purchase blocks to provide a weighted average purchase value of same commodities in said quantity credit account in a format that can be compared with current market prices for the same commodities. The combination of Nicholson and Chen disclose the claim limitations as recited in claim 13 including a means for combining data in said purchase blocks to provide a weighted average purchase value of same commodities in said quantity credit account in a format that can be compared with current market prices for the same commodities. In turn, Loblely discloses a system further comprising: e) a means for combining data in said purchase blocks to provide a weighted average purchase value of same commodities in said quantity credit account in a format that can be compared with current market prices for the same commodities (see at least Col 15, lines 12 – 19). Therefore, one of ordinary skill in the art would have been motivated to extend the combination of Nicholson and Chen with a system further comprising: e) a means for combining data in said purchase blocks to provide a weighted average purchase value of same commodities in said quantity credit account in a format that can be compared with current market prices for the same commodities. In this manner, the purchaser can use the current weighted average to judge their relative savings by

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comparing to current pump prices. In this regard, the purchaser will be able to see their savings and thereby too provide a decision point and additional incentive to buy more if commodity prices are high as compared to the weighted average as well as recommend the system to others.

Response to Arguments

Applicant's arguments with respect to claims 6 - 25 have been considered but are moot in view of the new ground(s) of rejection. The new prior art are Van Dusen and Lobley.

Applicant argues that Nicholson does not provide pre-register nor a secure access code.

Please see above rejection for the Chen reference, which does disclose and teach these limitations. Additionally, Nicholson does disclose and teach making these purchases over the internet (Abstract), which are then set up in initial accounts and allow tracking by account.

Applicant argues that Nicholson or Chen do not separate the quantity credit account into discrete blocks in a database.

First, both methods and system disclose and teach establishing accounts as well as tracking purchases as well redemptions. For example, Nicholson teaches one of

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ordinary skill that accounts are established, tracked and results of purchases as well redemptions being stored in a database (Abstract, Col 5, lines 1 – 9 and 19 – 28).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is McCall (US 6,321,984 B1), which discloses tracking buyers purchasers as well authorization code.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **571.272.6761**.

The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571. 272.7159**.

Any response to this action should be mailed to:

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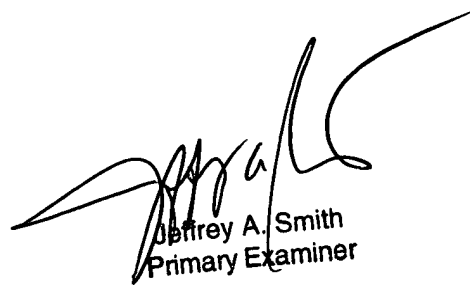
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RER



Jeffrey A. Smith
Primary Examiner